

BILL LOCKYER, Attorney General
of the State of California
GAIL M. HEPPELL, Supervising
Deputy Attorney General
JENNEVEE H. DE GUZMAN, State Bar No. 197817
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 327-1145
Facsimile: (916) 327-2247

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64188

JULIE ANN GARCIA, PT
18428 Fajardo Street
Rowland Heights CA 91748

A C C U S A T I O N

License No. AT 3661
License No. PT 28232

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, State of California.

2. On or about October 20, 1994, the Physical Therapy Board of California issued License Number AT 3661 to Julie Ann Garcia (Respondent). The license expired on February 29, 2004, and has not been renewed.

3. On or about November 25, 2002, the Physical Therapy Board of California granted physical therapist license applicant status to Respondent.

4. On or about April 11, 2003, the Physical Therapy Board of California

1 issued License Number PT 28232 to Respondent. The License was in full force and effect at all
2 times relevant to the charges brought herein and will expire on February 28, 2007, unless
3 renewed.

4 **JURISDICTION**

5 5. This Accusation is brought before the Physical Therapy Board of
6 California (Physical Therapy Board) for the Department of Consumer Affairs, State of
7 California, under the authority of the following laws. All section references are to the Business
8 and Professions Code unless otherwise indicated.

9 6. Section 2609 of the Code states:

10 “The board shall issue, suspend, and revoke licenses and approvals to practice
11 physical therapy as provided in this chapter.”

12 7. Section 2660 of the Code states in pertinent part as follows:

13 “The board may, after the conduct of appropriate proceedings under the
14 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
15 impose probationary conditions upon any license, certificate, or approval issued
16 under this chapter for unprofessional conduct that includes, but is not limited to,
17 one or any combination of the following causes:

18 ***

19 “(h) Gross negligence in his or her practice as a physical therapist or
20 physical therapy assistant.”

21 8. Section 2661.5 of the Code states in pertinent part as follows:

22 “(a) In any order issued in resolution of a disciplinary proceeding before
23 the board, the board may request the administrative law judge to direct any
24 licensee found guilty of unprofessional conduct to pay to the board a sum not to
25 exceed the actual and reasonable costs of the investigation and prosecution of the
26 case.”

27 9. Section 2660.1 of the Code states:

28 “ A patient, client, or customer of a licentiate under this chapter is

1 conclusively presumed to be incapable of giving free, full, and informed consent
2 to any sexual activity which is a violation of Section 726.”

3 10. Section 726 of the Code states:

4 “The commission of any act of sexual abuse, misconduct, or relations with
5 a patient, client, or customer constitutes unprofessional conduct and grounds for
6 disciplinary action for any person licensed under this division, under any initiative
7 act referred to in this division and under Chapter 17 (commencing with Section
8 9000) of Division 3.

9 “This section shall not apply to sexual contact between a physician and
10 surgeon and his or her spouse or person in an equivalent domestic relationship
11 when that physician and surgeon provides medical treatment, other than
12 psychotherapeutic treatment, to his or her spouse or person in an equivalent
13 domestic relationship.”

14 **FIRST CAUSE FOR DISCIPLINE**
15 (Sexual Relationship with a Patient)
[Bus. & Prof. Code, § 726, 2660.1]

16 11. Respondent is subject to disciplinary action under sections 726 and 2660.1
17 of the Code in that she engaged in a sexual relationship with a patient. The circumstances are as
18 follows:

19 12. On or about February 11, 2003, M.L. was evaluated and treated by
20 Respondent for a foot condition at Fresno Physical Therapy.

21 13. After the first or second session, Respondent phoned M.L. at her home and
22 asked general questions regarding her condition and treatment.

23 14. In or about March 2003, Respondent frequently phoned M.L. at her home,
24 and they began to discuss their personal lives. The telephone calls caused M.L. stress. M.L. did
25 not ask Respondent to stop calling because she thought it may have had a negative impact on her
26 treatment.

27 15. Also in March 2003, Respondent once visited M.L.’s home. Later that
28 same month, Respondent invited M.L. to the movies. M.L. felt pressured to accept and did so.

16. In or about April 2003, Respondent again went to M.L.'s home. Respondent told M.L. that she was a lesbian and wanted to have sex with M.L. By this time, M.L. had grown fond of Respondent and agreed to have sex. This was the beginning of M.L.'s sexual relationship with Respondent.

17. M.L. fell in love with Respondent. On May 22, 2003, just before Respondent left for vacation, Respondent gave M.L. a greeting card stating that they were “more than friends.” Upon Respondent’s return, she gave M.L. a 9-inch anklet which she had purchased while on vacation. Respondent also sent M.L. other cards.

18. M.L. and Respondent lived together from June through August 2003. The relationship broke down and ended on February 7, 2005 when Respondent told M.L. that she no longer wanted to see M.L.

19. In 2004, M.L. sought counseling for issues related to her relationship with Respondent.

20. M.L. was Respondent's patient from February 11, 2003, through May 21, 2003, for a total of 41 visits.

21. The above described conduct constitutes sexual relationship with a patient in violation of sections 726 and 2660.1.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

[Bus. & Prof. Code, § 2660, subd. (h)]

22. Respondent is subject to disciplinary action under section 2660, subdivision (h) in that she engaged in gross negligence in her practice as a physical therapist. The circumstances are as follows:

23. Complainant re-alleges paragraphs 11 through 19 above, as if fully set forth at this point.

24. The above described conduct constitutes gross negligence in violation of section 2660, subdivision (h).

DISCIPLINE CONSIDERATIONS

25. To determine the degree of discipline, if any, to be imposed on

Respondent, Complainant alleges that on or about October 29, 1997, in a prior disciplinary action entitled *In the Matter of the Accusation Against Julie Ann Garcia* before the Physical Therapy Board of California, in Case Number 1D-95-48540, the Board issued a decision effective on November 29, 1997, revoking Respondent's license. The revocation was stayed, and Respondent's license was placed on probation with certain terms and conditions for a period of four (4) years. A copy of the decision in case number 1D-95-48540 (*In the Matter of the Accusation Against Julie Ann Garcia*) is attached as Exhibit "A" and is incorporated by reference. In the Stipulated Settlement, Respondent admitted that she had secured a license by fraud and thereby subjected her license to disciplinary action pursuant to Code section 498. The decision is now final and is incorporated by reference as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending License Numbers AT 3661 and PT 28232, issued to Julie Ann Garcia.
2. Ordering Julie Ann Garcia to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: November 29, 2006

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
California Department of Consumer Affairs
State of California
Complainant